

ROLL CALL

COMMITTEE SESSION

AUGUST 15, 1995

CITY OF FORT WAYNE, INDIANA

The Common Council of the City of Fort Wayne met in the Common Council Conference Room 128 Tuesday evening August 15, 1995, in Committee Session. President Donald J. Schmidt, in the chair, Council Attorney Stanley A. Levine and Sandra E. Kennedy City Clerk, at the desk, present the following members
viz:

BRADBURY Present, EDMONDS Present, GiaQUINTA Present^(late)
HENRY Present, LONG Present, LUNSEY Present,
RAVINE Present, SCHMIDT Present, TALARICO Present

ABSENT: None

COUNCIL MEMBER _____



The City of Fort Wayne

Paul Helmke, Mayor

August 2, 1995

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the vacation of an alley.

The proposed ordinance is designated as:

Bill No. G-95-03-14

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
2nd day of August 1995.

A handwritten signature in black ink that reads "Carol Kettler Sharp".

Carol Kettler Sharp
Secretary

/pb

XC: File

FACT SHEET

G-95-03-14

BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE

Alley Vacation Ordinance

APPROVAL DEADLINE

REASON

DETAILS

Specific Location and/or Address

The N/S alley from Creighton south to the 1st intersecting alley between Calhoun & Clinton Street.

Reason for Project

Future construction of a new building.

Discussion (Including relationship to other Council actions)

20 March 1995 - Public Hearing

(See Attached Minutes of Meeting)

27 March 1995 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation contingent upon the petitioners providing utility easement and/or relocations as needed.

Of the five (5) members present, five (5) voted in favor of the motion.

Motion carried.

Members Present: Ernest Evans, James Hoch, Dave Ross, Carol Kettler Sharp, Mel Smith

Members Absent: Linda Buskirk, Thomas Quirk, Donald Schmidt, Vicky VerPlanck

POSITIONS	RECOMMENDATIONS
Sponsor	City Plan Commission
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) E L F Corporation City Department Other
Opponents	Groups or Individuals Basis of Opposition
Staff Recommendation	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against
Board or Commission Recommendation	By <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

Project Start Date 16 February 1995

Projected Completion or Occupancy Date 2 August 1995

Fact Sheet Prepared by Date 2 August 1995

Reviewed by Patricia Biancaniello

Reviewed by 

Reference or Case Number

8 August 1995

a. Bill No. G-95-03-14 - Vacation Petition #578
The North-South alley from Creighton south to the first
intersecting alley between Calhoun Street and Clinton
Street.

Chris Cook, with Abonmarche Consultants, appeared before the Commission for the petitioner E L F Corporation. Mr. Cook stated that the vacation petition is being requested for the construction for the future building. He stated that they have seen the staff comments and reviewed them. He stated that they agree with the comments. He stated that their new construction appears to fit in with the plans of the LaRez Neighborhood. He stated that one of the staff recommendations is conditional approval providing utility easement and/or relocations. He stated that until they finish the design of the building they are not sure whether they will have to provide easements or relocate utilities. He stated that the other requirement of the staff is that the legal description is to be revised to 15% feet wide. He stated that they have done so, and a copy of the new legal was available for the staff that evening. He stated that the third item requested by staff was a signature of the last remaining adjacent property owner. He stated that they have made contact with them, but due to an attorney being out of town they have not been able to coordinate with them and their attorney to get the signature. He stated that he felt that the conditions can be met with no problem on their part. He stated that the north-south and east-west alleys would remain so that access to all those existing residential uses that are not being purchased as part of this development will still have access. He stated that also a landscaping plan is being contemplated and they will work with the city on how to best screen the development from the residences.

Pat Fahey, Senior Planner with Land Use Management stated that he wanted to point out that the petitioner has noted several lots that they intend to acquire and use as part of the development. He stated that one of the lots is zoned residential - Lot 351 - which is at the corner of Creighton and Clinton Street. He stated that they should be aware that they will be limited as far the use of that particular lot, based on that residential zone.

Mel Smith questioned that in view of the traffic situation has the egress off of Clinton Street been discussed.

Mr. Cook stated that they have held a meeting with different city departments and they are aware that they are some things that they will need to work out with the city and with the department of transportation to determine the most efficient use of an ingress/egress.

Mel Smith questioned how many lots the development would encompass.

Mr. Cook stated that the building itself will encompass Lots 356, 357, 358 & 359.

Mr. Cook stated that they would demo all existing structures on the lots and a new building and parking area would be constructed.

Mel Smith questioned what business this property will be used for.

Mr. Cook stated that it will be a Walgreen's Drug Store.

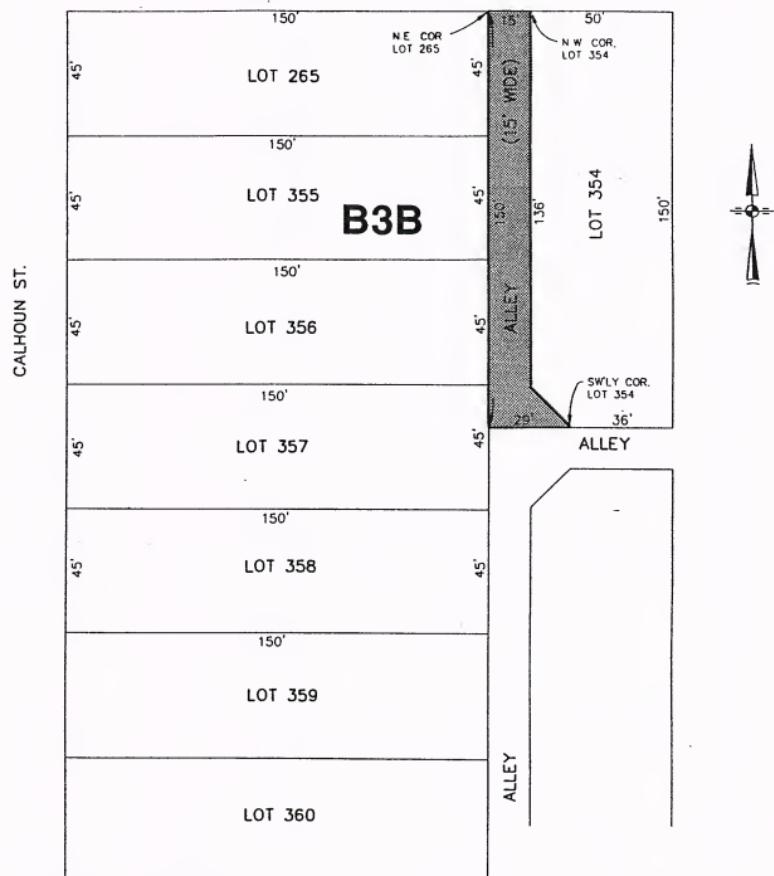
There was no one else present who spoke in favor of or in opposition to the proposed vacation.

VACATION PETITION

AREA MAP

CASE NO. #578

CREIGHTON AVE.



COUNCILMANIC DISTRICT NO. 1

Map No. M - 3
1 W 2-22-95

R1	One-Family	B1	Limited Business
R2	Two-Family	B2	Planned Shopping Center
R3	Multi-Family	B3	General Business
RA/RB	Residential	B4	Roadside Business
PUD	Planned Unit Dev.	POD	Professional Office District

Christopher J. Cook of Abonmarche Consultants, Inc., agents for E. L. F. Corporation, on behalf of the abutting property owners, requests the vacation of a portion of a public alley.

Location: The N-S alley from Creighton south to the first intersecting alley between Calhoun Street and Clinton Street.

Legal: See file

Land Area: Approximately 0.05 acres

Zoning: B-3-B

Surroundings: North B3B/R-3 Business & Residential
South B3B/R-3 Business & Residential
East B3B Business
West B3B Business

Reason for Request: Future construction of a new building.

Neighborhood Assoc.: LaRez Neighborhood Association
Hoagland Masterson Association and Williams Woodland
Association are located to the west

Comprehensive Plan: The general land use policies of the Comprehensive Plan states that development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed.

This property is within the Middle Ring. The goal of the Middle Ring is to maintain investment and prevent deterioration in existing neighborhoods.

Neighborhood Plan: According to the LaRez Neighborhood Plan this alley lies between two (2) proposed land uses. To the west is proposed commercial usage and to the east is proposed low-density residential usage. The plan states on page 35, "Commercial expansion should take place where business is now located along Calhoun Street, Hanna Street and sections of Pontiac Street." Additionally, expansion along Clinton Street and Lafayette Street should be discouraged as should further encroachment by business in residential areas, even though these streets are major traffic corridors. These points discourage a business from locating near Clinton Street along Creighton Avenue. However, on page 36 of the plan, "Commercial expansion along Calhoun should be encouraged...", due to its commercial character. Lastly, on page 49, it's stated that "Commercial businesses that serve the residents, such as

groceries and drug stores, should be encouraged to locate in or near LaRez, particularly along Calhoun Street..."

Based upon the plan we can support this petition and all following petitions as long as Clinton Street is unaffected and Calhoun Street serves as the access point into this development.

Planning Staff Discussion:

The petitioners are proposing this alley vacation in order to facilitate development on a combination of lots. While the new building construction would probably take place on the west side of this alley, the alley and the area immediately east would be used for parking, landscaping, and potentially signage.

The petitioners are assembling a parcel composed of lots 351 through 360 and including lot 265 at the corner. (The combined parcel would run from Clinton Street along Creighton Avenue to Calhoun Street, then south to Taber Street.) These lots are currently separated by a north south alley between Taber Street and Creighton Street, and by an alley running east to Clinton Street from a midblock location.

An initial site plan was reviewed by city departments to identify possible development concerns. Access was seen as a major concern for the developer, and for the city. It was thought that the site should be served by a single access from Calhoun Street, and Creighton Avenue. The Calhoun Street access should be located as far south as possible, with the Creighton Avenue access being located approximately mid-way. In engineering opinion, these alignments would provide for the safest movement of traffic to and from the site.

The developer would also like an access from Clinton Street, which is one way southbound. Staff discussed the merits of a right-in/out or a simple right-in only access point from Clinton Street. Alternate designs and locations were discussed, but no decision was made as the location and design is somewhat dependent on the status of the east-west alley. The city staff wanted to discuss the access with the Indiana Department of Transportation, but were not entirely opposed to an access.

Staff had suggested vacation of both alleys, but found that the developer did not own or control the properties to the southeast corner of this block. Further the east-west alley is currently used for access to existing residential development.

Projected time frames were discussed, as was the need for either a vacation or Board of Zoning Appeals petition. The proposed development parcel is physically separated by the north-south alley. If the abutting alley is vacated, this site development would be treated as being on one development parcel. With the alley remaining a public right-of-way, staff would have to treat the site development as occurring on two separated development parcels, and Board of Zoning Appeals approval would be required for the parking and signage.

The developer chose to petition to vacate the northern portion of the north-south alley. This course of action presents the least potential time delay, and would still allow for future

discussions with other property owners. Maintaining the east-west alley and the southern portion of this north-south alley should not prevent anyone from accessing private or public ways or places. Nor does staff believe that approval will harm property values in the area. In fact, approval will facilitate a major reinvestment in the area, in keeping with the overall goals of the city for this area.

Staff also believes that this proposal is consistent with the LaRez Neighborhood Plan. The petitioners have indicated their desire to situate the new building toward the Calhoun Street side, maintaining one residentially zoned lot at Clinton Street as a voluntary landscape buffer. While they also hope to use that lot for an access, the impact on the streetscape should be minimal, and the volunteered landscaping will help preserve the low density atmosphere envisioned in the neighborhood plan.

Staff did note that certain utilities are currently located in the alley. The petitioner would have to provide for utility easements and/or relocations as needed. Staff would suggest a "Conditional Approval" be given this petition subject to easements or relocations being provided. This would allow the staff to hold the petition for a period of up to six months, or until satisfied, ensuring that utility services remain uninterrupted.

Additionally the submitted legal description makes reference to a 15 foot wide alley, but records show that the alley is actually 15.5 feet wide. This is a correctable error that does not invalidate the legal notice requirements. But the present legal description should be revised.

Recommendation: Conditional Approval, contingent upon the petitioners satisfying the following:

- 1) providing utility easements and/or relocations as needed,
- 2) providing a revised legal description,
- 3) providing the signature of the one remaining property owner, or providing proof of notice if a signature cannot be obtained, and for the following reasons:
 - 1) Approval will not harm property values in the area, nor will it prevent access to public and/or private places.
 - 2) Approval will allow for an appropriately located driveway to serve the site, thus providing for safe traffic flow.
 - 3) Approval would encourage reinvestment in the area, meeting one of the goals of the Comprehensive Plan.

RESOLUTION 82-14-4

WHEREAS, E L F Corporation has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated alley situated in Fort Wayne, Allen County, to-wit:

Commencing at the northeast corner of Lot 265, Hamilton's Fourth Addition to the City of Fort Wayne, Indiana; thence south along the westerly line of a 15.5 foot wide alley, 150.00 feet to an intersection point with the south line of Lot 354, said plat as extended; thence east 29 feet to the southwesterly most corner of said Lot 354, said point being 36 feet west of the southeast corner said Lot 354; thence northwesterly along the southwesterly line of said Lot 354 to a corner of said Lot 354 that is 136 feet south of the northwest corner said Lot 354; thence north along the easterly line of said 15.5 foot wide alley to the northwest corner of said Lot 354; thence west, along the south line of Creighton Avenue, 15.5 feet to the place of beginning.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-3-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said vacation of dedicated alley has been routed through the following departments: Street Engineering, Traffic Engineering, Water Pollution Control Engineering, Electrical Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that the vacation of said dedicated alley hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana.

BE IT FURTHER RESOLVED by the Board of Public Works that the vacation of said dedicated alley hereinbefore described be and the same is hereby approved subject to easements as required by all public utilities occupying and using said portion of dedicated alley or part thereof for the vacation and operation of its utility facilities shall not be deprived of said use on account of these proceedings unless any said utilities shall file a written consent to said vacation.

STATE OF INDIANA)

) SS:

COUNTY OF ALLEN)

Linda Buskirk, Director of the Board of Public Works, do hereby certify that attached hereto is a full, true and correct copy of a resolution adopted by the Fort Wayne Board of Public Works at their meeting held July 5, 1995 and as same appears of record in the official records of the Board of Public Works.

DATED THIS 26 DAY OF *July* 1995

FORT WAYNE BOARD OF PUBLIC WORKS

Linda Buskirk
Linda Buskirk
Chairman, Board of Public Works

C. James Owen
Member, Board of Public Works

Terrance P. McCaffrey
Terrance P. McCaffrey
Member, Board of Public Works

RESOLUTION

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all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-3-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said public hearing was held on March 20, 1995 at 7:00 P.M. and at such hearing there were no objections of any kind or character which should prevent the vacation of said dedicated alley.

WHEREAS, said vacation of dedicated alley has been routed through the following departments: Street Engineering, Traffic Engineering, Water Engineering, Water Pollution Control Engineering, Street Light Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated alley hereinbefore described conforms to the general policy pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana;

BE IT FURTHER RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated alley hereinbefore described be and the same is hereby approved.

BE IT FURTHER RESOLVED no public utility occupying and using said dedicated alley or part thereof for the vacation and operation of its utility facilities shall be deprived of said use on account of these proceedings unless any said utility shall file a written consent to said vacation.

BE IT FURTHER RESOLVED that the action of the Fort Wayne City Plan Commission be forwarded to the proper governing body having jurisdiction of the vacation of said dedicated alley in Allen County, Indiana.

STATE OF INDIANA)

) SS:

COUNTY OF ALLEN)

I, Carol Kettler Sharp, Secretary of the Fort Wayne City Plan Commission, do hereby certify that attached is a full true and correct copy of a resolution adopted by the Fort Wayne City Plan Commission following a public hearing of said Commission held, March 27, 1995 and as the same appears of record in the official records of said Plan Commission.

DATED THIS 29th DAY OF March 1994

FORT WAYNE CITY PLAN COMMISSION
Carol Kettler Sharp

Carol Kettler Sharp
Secretary



MEMORANDUM

TO: City Council Members

FROM: Gary Stair, *(Signature)* Director of Planning, Community and Economic Development

DATE: August 2, 1995

SUBJECT: Recommendation from Plan Commission

The attached right-of-way vacation has been reviewed by the Fort Wayne Plan Commission and forwarded to you for final action. The Plan Commission's recommendation on this case, made after public hearing and review, has been certified by the Commission's Secretary and is summarized on the attached "Fact Sheet".

Occasionally, there will be a significant delay between the time the petition is filed and when the Plan Commission certifies its recommendation and forwards the case to you. This delay occurs when a petition receives "Conditional Approval" -- approval subject to the petitioner fulfilling certain obligations. In such cases the Plan Commission's staff holds the petition until all conditions have been met by the petitioner. Once all conditions have been satisfied, the case is forwarded to you.

As always, if you have any questions concerning the attached cases, please do not hesitate to call me or Pat Fahey of the Land Use Management staff at 427-1140.

/pb

Vacation Petition - Bill No. G-95-03-14

Amendment: Alley Vacation Ordinance

Location: The north/south alley from Creighton south to the first intersecting alley between Calhoun and Clinton Streets.

Applicant: E L F Corporation

Proponents: Chris Cook with Abonmarche Consultants

Opponents: None

Summary of Discussion: This petition would allow for the construction of a new building.

Staff Recommendation: Do Pass

Plan Commission Recommendation: Do Pass

Recommendation Given: March 27, 1995

Committee Session Date: The Committee Session date will depend upon the publication of the legal notice by Council staff.



The City of Fort Wayne

Paul Helmke, Mayor

August 3, 1995

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-04-93, amending Chapter 157 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-94-11-05

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
3rd day of August 1995.

**Council action on this
recommendation must take
place prior to:
November 1, 1995.**

Carol Kettler Sharp
Secretary

/pb

XC: File

FACT SHEET

Z-94-11-05

BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE	APPROVAL DEADLINE	REASON
Zoning Map Amendment		
From R1 to B1B		

DETAILS	POSITIONS	RECOMMENDATIONS
Specific Location and/or Address 1514 Orlando Drive	Sponsor	City Plan Commission
Reason for Project Commercial Development	Area Affected	City Wide Other Areas
Discussion (Including relationship to other Council actions) <u>21 November 1994- Public Hearing</u> See Attached Minutes of Meeting <u>28 November 1994 - Business Meeting</u> Deferred to January 9, 1995 Business Meeting. <u>9 January 1995 - Business Meeting</u> Deferred to January 30, 1995 Business Meeting. <u>30 January 1995 - Business Meeting</u> Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation, contingent upon the petitioners volunteered relocation of the perimeter screen requirement that was established in 1989-1990. Of the eight (8) members present, seven (7) voted in favor of the motion the Chair did not vote. Motion carried.	Applicants./ Proponents	Applicant(s) Patrick Bruggeman City Department Other
	Opponents	Groups or Individuals Ken Miller, Pres Ludwig Pk Association Basis of Opposition -possible impact of commercial encroachment and traffic flow into residential areas
	Staff Recommendation	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against
	Board or Commission Recommendation	By <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
	CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS

POLICY/PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

Project Start Date 20 October 1994

Projected Completion or Occupancy Date 3 August 1995

Fact Sheet Prepared by Date 3 August 1995
Patricia BiancanielloReviewed by Date
Patricia Biancaniello 8 August 1995

Reference or Case Number

a. Bill No. Z-94-11-05 - Change of Zone #573
From R-1 to B-1-B
1514 Orlando Dr

Mr. Mallers stated that he represented Patrick J. Bruggeman the owner of Lots 54 & 55 in Ludwig Park Addition. He stated that Lot 55 is the subject of the rezoning petition and both Lots 54 & 55 are the subject of the petition to vacate. He stated that Lot 54 was rezoned from R-1 to B-1-B in 1989 along with a number of other properties on the east side of Lima Road from Washington Center Road extending north to Ludwig Park Drive. He stated that the present request to rezone Lot 55 is a result of a proposal from Klopfenstein Furniture to purchase both Lot 54 & 55 for the purpose of constructing a retail furniture store. He stated that the petition to vacate the plat is based on the recognition that both of these lots are part of Ludwig Park, which is subject to certain plat restrictions and building lines, which apply only to residential properties. He stated that they feel that in order to proceed with the proposed commercial development it is necessary to deal with the plat matters as well. He stated that in 1989 it was acknowledged, by the owners of the various properties that were rezoned at that time, that whenever there would be commercial development proposed for those lots within Ludwig Park Addition, the matter of the plat restrictions would have to be handled at the time of the proposed development. He stated that as far as he knew this was the first time that they have been dealing with this particular situation. He stated that Mr. Bruggeman has had numerous offers to purchase Lot 54 & 55, some of which have been for a higher purchase price than Klopfenstein Furniture. Mr. Bruggeman felt that the Klopfenstein proposal would be more compatible with the residential uses of the neighborhood in recognizing that he would be dealing with the neighborhood association on the plat matters. He stated that they were there for the first time dealing with both the rezoning and the plat. He stated that he recognized that a consideration of rezoning is not necessarily concerned with a specific proposal. He stated that he believed that it is important that to consider some of the basic elements of the Klopfenstein proposal so that you will have a better understanding of what they are dealing with in the petition and why they feel the rezoning of Lot 55 is appropriate. He stated that Klopfenstein Furniture is a longstanding and reputable business in this area and it desires to establish a presence in Fort Wayne on Lima Road. He stated that while the specific development plan has not been finalized a preliminary site plan has been prepared and reviewed with the Feasibility Committee and with other city departments as well as with the Ludwig Park Association. He stated that they have tried to emphasize to the association that this is a preliminary plan only. He stated that Mr. Klopfenstein does not want to undertake the significant expense of developing a final plan until all of the details, including approval of the rezoning and vacation requests have been finalized. He stated that the building for any retail furniture store is going to be relatively large in size compared to other retail operations. However, he stated, what they feel is unique is that they have a very low traffic volume. He stated that based on the current Klopfenstein operation the estimate is 14 to 15 customer cars a day. He stated that this would vary of course based on the day of the week, the time of the year and special sales. He stated that they felt that the hours of operation would be compatible with the surrounding uses. He stated that a furniture would be open from 10 am to 8 pm on most days, 10 am to 5 pm on Saturday and not open at all on Sunday. He stated that is subject to some change, but based on the current Klopfenstein operation that is what they have found to be appropriate and that is what they are proposing at this site. He stated that a loading dock will be required. He stated however that the majority of deliveries will be by smaller truck, van or possibly UPS. He stated that a semi-truck will be required approximately once every 5 days. He stated that there have been discussion with the city regarding access and drainage, and obviously the project will have to comply with all city requirements. He stated that the landscape buffer, which was established in 1989 as a requirement of the rezoning of the

properties on Lima Road, will be voluntarily shifted to the east property line of Lot 55 so that an adequate buffer will affect between this commercial development and the residential use to the east. Mr. Mallers stated that representatives of the petitioner, Mr. Bruggeman and Mr. Klopfenstein and his representative, have met with members of the Ludwig Park Board of Directors and with members of the association. The petitioner believes that the rezoning of Lot 55 to a B1B classification is appropriate for a number of reasons. The rezoning of Lot 53 & 54, which is to the north and the other properties to the south of Lot 54, was in recognition of the changing character of Lima Road and adjacent properties. He stated that over the last five years, from the rezoning, the commercial growth in this area has expanded greatly, particularly with the development of Crosscreek, which in 1989 was only in the early planning stages. He stated that there have been numerous other properties in the area that have been developed for business purposes. He stated that it was his understanding that many of those properties, which were zoned in 1989, are now the subject of rather intense investigation as to commercial uses. In 1989 Lot 55 was originally included in the petition to rezone, but it was voluntarily withdrawn. However, considering the depth of Lot 53 to the north, rezoning Lot 55 creates a similarly sized business parcel to the south of Lot 53. He stated that this configuration existed in 1989, but not only have the circumstances changed over the last 5 years, but now they have a specific proposal that requires the use of both Lots 54 & 55. He stated that in 1989 there was no specific proposal for these property. He stated that given the fact that Lot 55 has been vacant for well over 10 years, it is highly unlikely that this would ever be used for residential purposes. He stated that rezoning Lot 55 is consistent with the Comprehensive Plan, which encourages growth in a balanced manner within or adjacent to existing development and which does not establish an undesirable precedent. He stated that because of the existing B-1-B Lots 53 & 54 extending the B1B zoning to Lot 55, which adjacent to both, does provide balanced growth. He stated that rezoning Lot 55 to permit the proposed use, on both Lots 54 & 55, clearly reflects that the most desirable use for this property is commercial. He stated that the petitioner maintains that the proposed plan for Lots 54 & 55 will not have a negative effect on the surrounding properties. He stated that given the concentrated commercialization of Lima Road and given the many possibilities for the business use for Lot 54, for less compatible uses on this property, it stands to reason that the proposed use will be as compatible a business use as exists. In 1989 the city required a landscape buffer. He stated that Mr. Klopfenstein is willing to place that on the east property line of Lot 55. He stated that they feel that will help secure the property values of the properties to the east. Further there are discussions with the city to install a cul de sac on Orlando Drive east of Lot 55, which they feel would be a further effort to conserve the property values. He stated that for all of the above reasons the petitioners maintain that the rezoning of Lot 55 to B1B and permitting Klopfenstein Furniture to develop Lots 54 & 55 as planned would constitute responsible development for this area. The rezoning of Lot 55 would not be spot zoning, in that it is adjacent to existing B1B property. The placement of the landscape buffer to the east property line shows further evidence of responsible development, and considering the numerous and more offensive business uses for which Lot 54 could already be used, the proposal constitutes responsible development. He stated that the second part of the presentation involves the petition of Klopfenstein Furniture to vacate Lots 54 & 55 from the plat of Ludwig Park Subdivision, including all restrictions, building lines and other encumbrances. As the staff discussion indicates, Klopfenstein Furniture and the Mr. Bruggeman recognize that Lots 54 & 55 are in the plat of Ludwig Park, which was platted in 1956. Mr. Mallers distributed copies of the plat along with the restrictions to the Commission Members. Mr. Mallers stated that they were aware that there is a prescribed procedure in the plat itself for amending the plat. He stated that they are not ignoring that. He stated that they have had meetings with the Board of Directors for Ludwig Park Association and their are continuing to investigate their concerns and investigate solutions. He stated that they have every intention of reaching an agreement with

the association relative to the various restrictions. However, he stated since the Plan Commission does have jurisdiction over plats, and because there is a 75 foot building line that extends across both these lots, they have filed the petition so that they could handle all other plat matters relative to the proposal. He stated that they have discussed with the association the possibility of entering into new covenants and restrictions. He stated at this time they have not reached a specific agreement. He stated that they are well aware that there are a number of concerns voiced by the residents, concerns related to the landscape buffer, drainage, future uses and the cul de sac. He stated that based on numerous discussions with the city, they feel that there are some real prospects toward having a cul de sac developed for Orlando Drive east of the proposed development. He stated that he would assure the Commission and the residents that they will continue their efforts to finalize that discussion and make a specific proposal to the association. He stated that as far as future uses for the property, recognizing that there are a multitude of uses available, they have tried to express to the association that Mr. Klopfenstein is a young man and this is his future. He stated that Mr. Klopfenstein has every intention of utilizing this property for the furniture store. He stated that he is willing to make a sizable investment for that purpose. He stated that recognizing that anything can happen, they have indicated that there are a number of B1A and B1B uses that Mr. Klopfenstein is willing to exclude in the form of a restrictive covenant, with the association, so that as such time as it is no longer used as a furniture store, the use will be restricted. He stated that the vacation of the lots from the plat along with the 75 foot building line will allow for the best potential site development for these lots. He stated that if lots 54 & 55 remain in the plat, the owner & developer will be faced with either violating the restrictions and facing a court action. He stated that having the Commission's approval of the vacation is a necessary step in the development process. He stated that given the current B1B zoning for Lot 54 and assuming a rezoning of Lot 55 to B1B, the subject restrictions and existing building lines are no longer applicable for these lots and approval of this request is appropriate. He stated in conclusion for all of the reasons stated for the rezoning of Lot 55 and with respect of vacating both Lots 54 & 55 from the plat of Ludwig Park they respectfully request that the Plan Commission approve the petitions.

Mark GiaQuinta questioned Mr. Mallers if he felt that there had been a change in circumstances there that would warrant the removable of the covenants.

Mr. Mallers stated "absolutely."

Mr. GiaQuinta asked what the impact of the rezoning without a compromise over the covenants.

Mr. Mallers stated that any developer could proceed to build and technically be in violation of the covenants. He stated that undoubtedly a court action would ensue. He stated they do not want to take that approach.

Ken Miller, (present resident of the Ludwig Park Addition and present vice-present of the Ludwig Park Neighborhood Association Board of Directors) appeared before the Commission in opposition. He presented a document, which is attached and was read into the minutes at the public hearing. Mr. Miller states in the document that, "is not intended that this document comprehensively communicates all our residents concerns, but that it is only representative, and as the ramifications of this proposal are further comprehended yet other concerns may be forthcoming.".

Bill Swisher, 904 Pelham Drive, former President of the Ludwig Park Association appeared

before the Commission in opposition to the proposed rezoning and vacation. Mr. Swisher stated that he was president of the association in 1989 when the first zoning was done along Lima Road. He stated that the Plan Commission at that time voted against rezoning Lot 55 and they were grateful for that decision. He stated that Mr. Mallers had stated that he did not think that anything had been brought up before, but the Burger King proposal had been brought up at that time. He stated that they had great support from the association at that time and they do now.

In rebuttal Mr. Mallers stated that he would address Mr. Swisher comment first. He stated that he was involved in the rezoning in 1989. He stated that the Burger King proposal was the impudence behind the entire rezoning. He stated that they dropped out of the picture before it ever came to the Plan Commission for a hearing. He stated that he wanted to correct what Mr. Swisher said regarding Lot 55. The Plan Commission did not vote to not rezone Lot 55, that was voluntarily withdrawn. Regarding the comments of Mr. Miller, Mr. Mallers stated that they did meet with the Board over a month ago and for scheduling reasons they finally had the meeting as a whole on last Tuesday. He stated that they initiated their discussions with the association through the Board, well over a month ago. Mr. Mallers stated that with regard to the landscape buffer, regardless of the preliminary site plan displayed by Mr. Miller, they are saying at this point that Mr. Klopfenstein is willing to have the same landscape buffer that was required in 1989 resituated at the east property line of Lot 55. He stated that in 1989 the city required that the property owners enter into a declaration of covenants for the granting of a 40 foot easement for the frontage road. It was considered at that time to be an appropriate means of access. He stated that the essence of it is, that at any time that a commercial development would be proposed and approved for construction, then the city would require that the property owner grant the forty foot easement. There has been some reference now to the road not being a frontage but a service road at some other location. He stated that is only because the city is rethinking what would be best for the entire area. He stated that it is not their proposal. He stated that also in 1989, the property owners submitted a letter to Tom Cain, promising that the landscape buffer would be implemented, so that is not technically part of the declaration of covenants, but it is of record. Mr. Mallers stated that with respect to all of the references, made by Mr. Miller in his statement, to the Phillip's project, he was aware that the association was considering the two projects together. He stated that there is no Phillip project for Lot 53 presented to the Commission, it is really not part of this discussion. He stated they had actually hoped to present both proposals, Phillip's and Klopfenstein's, together, but for various reasons Mr. Phillip and the owner of Lot 53 decided not to. He stated that just because Lot 55 is rezoned does not mean necessarily that any other lot will be rezoned. He stated that Mr. Bruggeman does own Lots 56, 57 & 58 and without going into detail these lots were acquired a number of years ago by Mr. Bruggeman as he was assisting the owner of the lots at the time who was having financial troubles. He stated that if you look at the plat Lots 57 & 58 are terribly misaligned from any other reasonable line of B1B property. He stated that they are not part of this application, nor is Lot 56, there is no intent to now or ever have those lots rezoned. He stated that Mr. Miller's statement made reference to "possible" property devaluation, "possible" traffic problems, "possible" various other problems. He stated that he thought it was highly speculative. He stated that when you consider some of the potential uses for Lot 54, nearly 90 B1A and B1B uses, many of which are going to create a much greater possibility for these kinds of problems than what is being proposed. He stated as far as the request for a delay as stated by Mr. Miller, Mr. Mallers stated that he would like to leave that open. He stated that there is a possibility that they will request that the petition to vacate be postponed for a period of time while they continue to work with the association. He stated that they intend to discuss that further this week and have more information on that on Monday.

There was no one else present who spoke in favor of or in opposition to the proposed rezoning.

Peter G. Mallers, attorney for Patrick J. Bruggeman, requests a change of zone from R-1 to B-1-B.

Location: 1514 Orlando Drive

Legal: Lot 55 Ludwig Park Addition

Land Area: Approximately 0.52 acres

Zoning: R-1

Surroundings:	North	B1B/R-1	Open and Residential
	South	B1B/R-1	Commercial & Residential
	East	R-1	Residential
	West	B-1-B	Open

Reason for Request: Commercial development

Neighborhood Assoc.: Ludwig Park Community Association

Comprehensive Plan: The general land use policies of the comprehensive plan states that development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed.

This project is located within the North Sector of the Outer Ring. The goal of the Outer Ring is to encourage growth in a balanced manner that is within or adjacent to existing development in the urban service area.

Neighborhood Plan: No comment.

Planning Staff Discussion:

The east side of the Lima Road, from Washington Center Road north to Ludwig Park Drive, was rezoned in 1988-89 with the exception of one parcel. Conditions associated with the approval of that petition included an agreement to grant a 40 foot ingress/egress easement, and the closure of any existing or temporary curb cuts. Additionally, the petitioners/property owners agreed to install a perimeter screen where commercialized properties abutted residential uses. This screen would consist of a combination of plant material and a wood fence and would vary from 20 to 30 feet in width and 5 to 6 feet in height.

The residents in the area, primarily the Ludwig Park Association were initially opposed to the rezoning, but finally conceded that the Lima Road frontage was appropriate for commercial development. The original petition had included lot 55, but the petitioners requested its deletion in an effort to establish a good neighbor relationship with the association.

The petitioners were also aware that the platted properties were subject to private contractual restrictions and building lines, and had stated that they would address those restrictions separately.

Since that time, additional development has occurred on Lima Road, most noticeably the Cross Creek Development. Warrants have been met for the installation of a traffic signal at the intersection of Orlando Drive. Traffic increases have already occurred along Lima Road and will continue to swell as additional development takes place along this corridor.

While the east side of Lima Road has not developed on the same time line, renewed interest has been shown. Staff is aware of development interests on the lots between Orlando Drive and Ludwig Park Drive, as well as to the south of Orlando Drive. Staff had suggested that both developments contact the Feasibility Committee for access recommendations, as both parcels may be subject to an access road agreement.

The Feasibility Committee reviewed the area and recommended that development between Orlando Drive and Ludwig Park Drive be served by individual access from the side streets, with no access being allowed from Lima Road. It was further recommended that any commercial access granted from Orlando Drive should be located as far away from the intersection as possible in order to provide sufficient stacking distance, and to eliminate access point conflicts. Additional right-of-way dedications and roadway improvements would probably be required for both Lima Road and Orlando Drive.

The property on the north is currently zoned for limited business uses, and will probably develop in the immediate future. It is approximately 100 feet deeper (along Ludwig Park Drive), than what the petitioned property is.

While there is a concern of the possible impacts of commercial traffic flowing through a residential area, there is an over-riding concern regarding the safe flow of traffic. Requiring a commercial access to be located as far as possible from the intersection addresses that safety concern. Lot 54 has about 130 feet of frontage on Orlando Drive, which will actually provide less usable area due to the right-of-way dedications and perimeter screen requirements. If lot 55 were rezoned, it would increase the frontage by approximately 100 feet. That would allow for a better access location, and would provide a better zoning alignment with the parcel to the north. It could also improve the implementation of a landscape screen by relocating it further from the Lima Road frontage. Staff would therefore suggest approving the request to rezone, providing that the petitioner relocate the proposed perimeter screen to the new eastern commercial lot line. Staff would also support that position for lot 87 located on the south side of Orlando Drive for the same reasons.

Approval will result in allowing the best potential for development of the site, while re-establishing the commercial boundary to the best advantage for both the residential and non-residential uses. Allowing access from the side street protects traffic movement on the main corridor, while permitting safe access to the commercial sites.

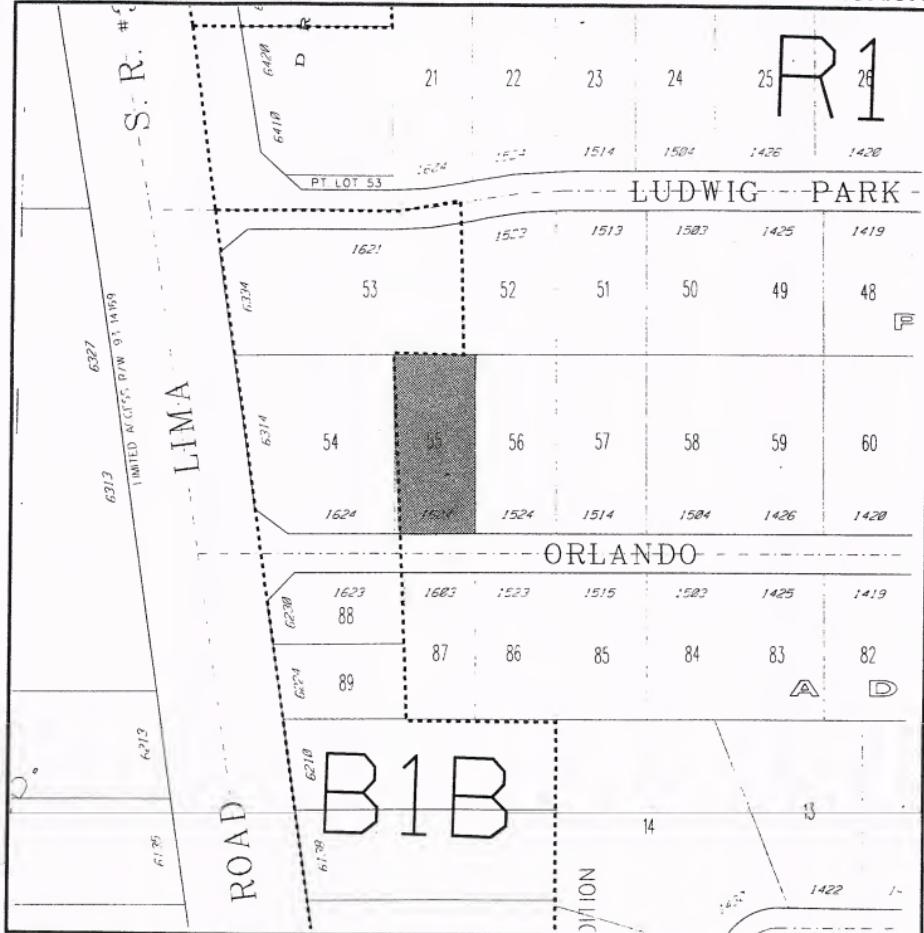
Recommendation: If the petitioner is willing to volunteer the relocation of the self imposed perimeter screen to the east property line of lot 55, staff would recommend approval for the following reasons:

- 1) Approval will allow a better zoning alignment with the property to the immediate north.
- 2) Conditions in the area have changed, supporting commercial development along the Lima Road frontage. The Feasibility Committee has recommended that access be located as far away from the intersection as possible (a minimum of 150 feet after the right-of-way dedication). Approval will allow for the improved development potential of the Lima Road frontage.
- 3) Approval will provide for the highest and best use of the property, without altering the effect of development on the residential properties to the east.

REZONING PETITION

AREA MAP

CASE NO. #573



COUNCILMANIC DISTRICT NO. 3

Map No. K-38
LW 10-22-94

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUD	Planned Unit Dev.	POD	Professional Office District		

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on November 11, 1994 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-94-11-05; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on November 21, 1994.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;

(3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

(4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,

(5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held November 28, 1994.

Certified and signed this
3rd day of August 1995.



Carol Kettler Sharp
Secretary



The City of Fort Wayne

Paul Helmke, Mayor

August 3, 1995

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-04-93, amending Chapter 157 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

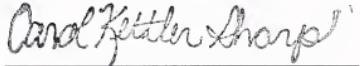
Bill No. Z-95-07-05

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
7th day of August 1995.

**Council action on this
recommendation must take
place prior to:
September 22, 1995.**



Carol Kettler Sharp
Secretary

/pb

FACT SHEET

Z-95-07-05

BILL NUMBER

**Division of Community
Development & Planning**

BRIEF TITLE	APPROVAL DEADLINE	REASON
Zoning Map Amendment		
From R-1 to R-3		

DETAILS		POSITIONS	RECOMMENDATIONS
Specific Location and/or Address 3720 N Clinton St		Sponsor City Plan Commission	
Reason for Project Construction of office building pending Board of Zoning Appeals approvals.		Area Affected City Wide Other Areas	
Discussion (Including relationship to other Council actions) <u>17 July 1995 - Public Hearing</u> See Attached Minutes of Meeting <u>24 July 1995 - Business Meeting</u> Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation. Of the eight (8) members present, seven (7) voted in favor of the motion, the Chair did not vote. Members Present: Linda Buskirk, Ernest Evans, James Hoch, Thomas Quirk, Dave Ross, Carol Kettler Sharp, Mel Smith, Vicky VerPlanck Member Absent: Donald Schmidt		Applicants/ Proponents Bruce Wilds City Department Other	Applicant(s) Bruce Wilds City Department Other
		Opponents	Groups or Individuals Basis of Opposition
		Staff Recommendation	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against
		Board or Commission Recommendation	By <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
		CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

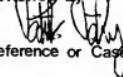
Project Start Date 12 October 1994

Projected Completion or Occupancy Date 3 August 1995

Fact Sheet Prepared by Date 3 August 1995

Patricia Biancaniello

Reviewed by Date



8 August 1995

Reference or Case Number

a. Bill No. Z-95-07-05 - Change of Zone #570
From R-1 to R-3
3720 N Clinton Street

Bob Haller, attorney for petitioners appeared before the Commission. Mr. Haller stated that the petitioner, Bruce Wilds, owns the requested to be rezoned, as well as lots 103, 104 & 105. Mr. Haller stated that Lots 103, 104 & 105 are already zoned R-3. The purpose of the rezoning petition is to allow construction of three office buildings. He presented the Commission with a rendering of what the proposed office buildings would look like. (See File for Rendering) Mr. Haller stated that the rendering is not "set in concrete" but is what they envision to build on the property. Mr. Haller stated that they are one story buildings and designed to be compatible with the residential uses directly to the east. He stated that Highland Park Forest Addition as been for the most part built as single family residential uses, with the exception of the property fronting along Clinton Street. He stated that the petitioner believes that the highest and best use for the lots under consideration, as well as the three lots that are already zoned R-3, is for office uses. He stated that he felt it was doubtful that these particular lots would be developed as single family residences. He stated that any residences built on these lots would have to look at a commercial use. He stated that they believe that the proposed office use, in the form that was submitted to the Commission, would stabilize the neighborhood, would stabilize the values of the homes to the east and once the offices were built, would remove the possibility of future requests for commercial use for these lots in connection with the lots along Clinton Street. Mr. Haller stated that when the petition was originally filed the layout of the offices did not contemplate vacating any right-of-way. It was after discussions with the staff that the possibility of vacating a portion of Allen Avenue, as well as the alleys, came up. He stated that they prepared a new layout for the vacations. He stated that since they are uncertain that the vacations will be approved, it is a separate issue, and a separate petition, they suggest that the Commission make a *de pass* recommendation for the rezoning request. He stated that the rezoning request should have the conditions, that are addressed in the staff report as part of that approval. He stated that they address the issues of street planning, parking locations and access locations be worked out with the staff. He stated that they are willing to work with the staff on those issues. He stated that they also are obliged to go to the Board of Zoning Appeals, to request a Special Use Exception (for offices in an R-3 District). He stated that the concerns about parking and screening and access could be addressed by the BZA.

Mel Smith questioned what was the proposed total square footage of the proposed offices.

Paul Nightingale, engineer, for the petitioner, stated that for all three buildings would be 14,976 square feet.

Jim Hoch questioned what the total number of parking spaces that would be provided.

Mr. Nightingale stated that it exceeds the minimum, they have 49 parking spaces.

Linda Buskirk questioned if they would still go forward with the development, even if the right-of-way vacations were not approved.

Mr. Haller stated that they would. The original plans did not call for vacating of any right-of-way.

Darwin Highlen, owner of Dar's Outlet, which is adjacent to the property in question, appeared before the Commission. Mr. Highlen stated he owns Lots 115, 114, 110, 109, 108 fronting on

Clinton Street. He stated that he also owned Lots 118 & 119 and is in the process of purchasing Lot 117 on the back side of Allen Avenue. Mr. Highlen stated the Lots 103, 104 & 105 is a drainage ditch. He stated that he was litigation, approximately 3 years, over the property because it is a drainage ditch. He stated that he won his lawsuit at that time. He stated that the ditch was covered and filled in over the last 20 years by the previous owner, who tried to make it sellable property.

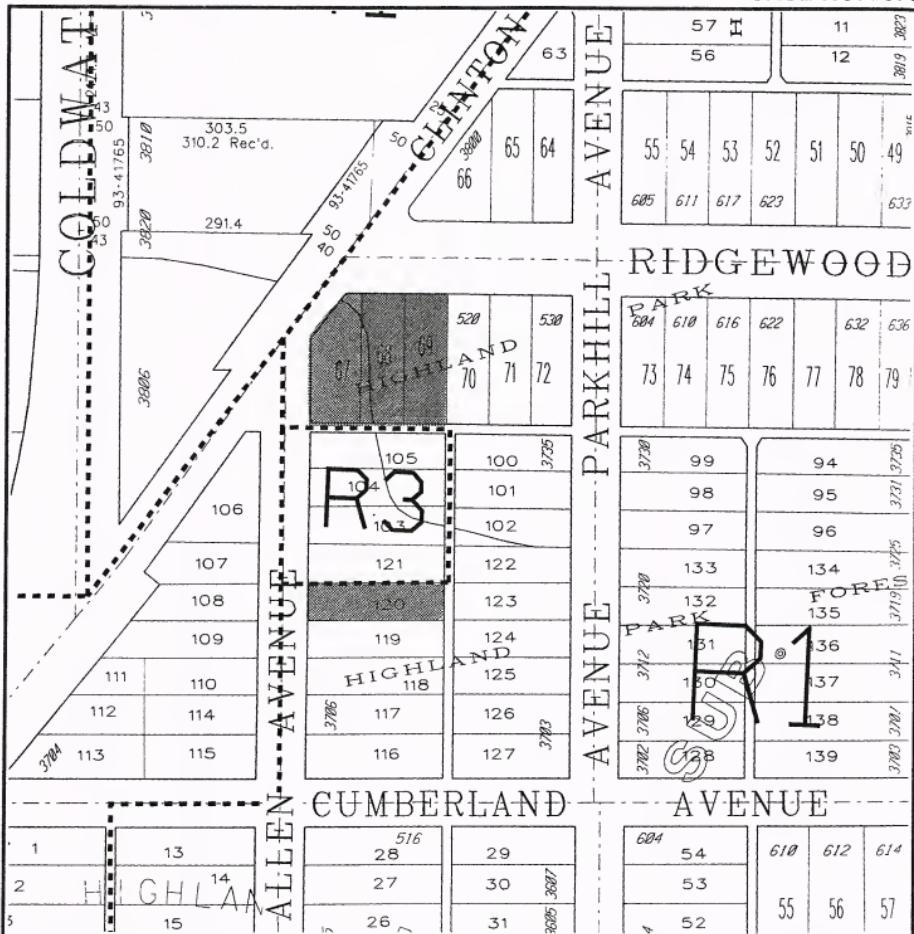
In rebuttal, Mr. Haller stated you can turn left onto Cumberland Avenue. He stated that with Mr. Hoeppner's business there are other entrances available to access the property. He stated with regard to Mr. Highlen's comments, he stated that semi-trailers do not need to use Allen Avenue for ingress and egress. He stated that they can access from Cumberland Avenue. He stated that they the comment that Mr. Highlen made that the trailers unload and leave was questionable. He stated that there are about a ½ dozen trailers on Mr. Highlen's property that have never left. He stated that the least Mr. Highlen could do was come into the meeting with "clean hands". He stated that Mr. Highlen's is using an R-1 district for part of his parking lot. Mr. Haller stated that if they are granted the vacation the cul-de-sac they intend to put in will meet the city code. It will be paved and people will not attempt to turn around on Mr. Highlen's lot, which is not paved, but gravel. He submitted two letters of support from neighbors in the area. One from a Paul Anderson, 610 Cumberland Avenue and one from the Highland Park Community Association Board.

There was no one else present who spoke in favor of or in opposition to the proposed rezoning.

REZONING PETITION

CASE NO. #570

AREA MAP



R1 One-Family
R2 Two-Family
R3 Multi-Family
RA/RB Residential
PUD Planned Unit Dev.

B1 Limited Business
B2 Planned Shopping Center
B3 General Business
B4 Roadside Business
POD Professional Office District

M1 Light Industrial
M2 General Industrial
M3 Heavy Industrial
MHP Mobile Home Park

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on July 11, 1995 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-95-07-05; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on July 17, 1995.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;

(3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

(4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,

(5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held July 24, 1995.

Certified and signed this
3rd day of August 1995.



Carol Kettler Sharp
Secretary

Robert Haller, attorney for Bruce W. Wilds, requests a change of zone from R-1 to R-3.

Location: Allen Avenue and North Clinton Street

Legal: Lots 67, 68, 69 and 120 in Highland Park Forest Addition.

Land Area: Approximately 0.5 acres

Zoning: R-1

Surroundings:	North	R-1/M-1	Residential
	South	R-3/R-1	Open/Residential
	East	R-1	Residential
	West	M-1/B-3-B	Commercial

Reason for Request: Construction of office building pending Board of Zoning Appeals approvals.

Neighborhood Assoc.: Highland Park Forest Community Association

Neighborhood Plan: No comment.

Comprehensive Plan: The general land use policies of the Comprehensive Plan states that development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed.

This property is located within the Middle Ring. The goal in the Middle Ring is to maintain investments and prevent deterioration in existing neighborhoods.

Planning Staff Discussion:

The petitioner would like to build office buildings here pending approval of the rezoning, and Board of Zoning Appeals approval. The area directly west has been developed with a mix of uses including commercial and a mobile home community. To the south are residentially zoned lots currently used by DAR'S for storage and parking. To the north is a church, and easterly are residential uses.

The desirability of these lots for residential development is highly unlikely due to surrounding land uses and traffic volumes. The petitioner instead wishes to rezone these lots to R-3, and include them

in an office development that would provide some buffering to the easterly residential uses, while capitalizing on the Clinton Street exposure. Such a development could help to stabilize the area by providing a buffer between more intense commercial development and traditional residential uses to the east.

It should be noted that the petitioner owns the lots between the lots included in this petition. Those lots are already zoned R-3 and would be combined for the total development of the proposed office park.

Staff believes that this petition meets the goals of the Comprehensive Plan, as approval would encourage reinvestment while adding a "stopper" to neighborhood deterioration.

There are some site considerations that would need to be addressed by the petitioner and the Board of Zoning Appeals before allowing an office development at this location. Concerns include access limitations, screening, and the possible vacating of an alley, and/or an easement. Staff met with the petitioner's attorney in October to discuss some of these issues. At that meeting, they suggested the site plan was open to change as a final layout was not yet possible. As a result of that meeting and other considerations, this petition has been deferred, in hopes of allowing the petitioner to resolve the potential problems discussed. Staff subsequently met with the developer's engineer in attempts to resolve some site plan issues.

While the actual site development will not come under the jurisdiction of the Plan Commission, staff felt that an accurate site plan proposal could be used to address neighborhood concerns. With the R-3 zoning the petitioner would need to seek a "Special Use" approval from the Board of Zoning Appeals. The Board would have the right to review the entire proposal, including site layout, and place whatever conditions of approval that would be warranted.

Recommendation: Do Pass for the following reasons:

- 1) Approval would allow a higher land use with minimal impact on the residential area to the east.
- 2) Approval would encourage reinvestment in the area, and would assist in stopping deterioration of the area.
- 3) Eventual development of an office complex could act as a buffer between residential properties and more intense commercial uses.



The City of Fort Wayne

Paul Helmke, Mayor

August 3, 1995

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-04-93, amending Chapter 157 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-95-07-02

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
7th day of August 1995.

**Council action on this
recommendation must take
place prior to:
September 22, 1995.**

A handwritten signature in black ink that reads "Carol Kettler Sharp".

Carol Kettler Sharp
Secretary

/pb

FACT SHEET

Z-95-07-02

BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE	APPROVAL DEADLINE	REASON
Zoning Map Amendment From B1B to B3B		

DETAILS		POSITIONS	RECOMMENDATIONS
Specific Location and/or Address 5002 S Calhoun St		Sponsor	City Plan Commission
Reason for Project To conduct a "rent-to-own" rental business and a "Buy Here - Pay Here" used car lot.		Area Affected	City Wide Other Areas
		Applicants/ Proponents	Applicant(s) Allen C Dornte / Billy G Mullins City Department Other
Discussion (Including relationship to other Council actions) <u>17 July 1995 - Public Hearing</u> See Attached Minutes of Meeting		Opponents	Groups or Individuals Basis of Opposition
<u>24 July 1995 - Business Meeting</u> Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation. Of the eight (8) members present, six (6) voted in favor of the motion, one (1) voted against the motion, the Chair did not vote.		Staff Recommendation	<input type="checkbox"/> For <input checked="" type="checkbox"/> Against Reason Against -approval is not consistent with the character and condition of development in area
Motion Carried Members Present: Linda Buskirk, Ernest Evans, James Hoch, Thomas Quirk, Dave Ross, Carol Kettler Sharp, Mel Smith, Vicky VerPlanck Member Absent: Donald Schmidt		Board or Commission Recommendation	By <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
		CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS

POLICY/PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

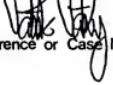
Project Start Date 7 June 1995

Projected Completion or Occupancy Date 3 August 1995

Fact Sheet Prepared by Date 3 August 1995

Patricia Biancaniello

Reviewed by Date



Reference or Case Number

8 August 1995

b. Bill No. Z-95-07-02 - Change of Zone #590
From B1B to B3B
5002 So Calhoun Street

Dale Bloom, attorney for the petitioners, Allen C Dornte. Mr. Bloom stated that they want to rezone the property for the purpose of selling cars as well as a rental business. He stated that the used car business is not permitted in the current zoning (B1B). A number of issues have been raised by the staff comments. He stated that across the street from this property is Southgate Plaza, which is zoned B-3-B, and according to the Comprehensive Plan, it indicates that Calhoun Street has been designed to be a buffer area between the B3B and B1B. He stated that the lots they are seeking to rezone are currently B1B, along with a number of other lots any number of other lots that adjoin it. He stated that in back of the B1B is residential classification. He stated that Calhoun Street has been portrayed as a natural buffer. He stated that their petition does not seek to cause deterioration, or to inhibit investments. He stated that on contrary what they want to do is maintain this property as a viable business. He stated that it is currently operated by Mr. Dornte as a service station, and has been used as such for many years. He stated that they intend to use this location, if rezoned, for a "Buy Here, Pay Here Used Car Lot" rent to own combination. He stated that they would have various items of merchandise that they would rent, such as VCR's, video cameras, washer/dryer etc. He stated that they feel what they propose to do, they maintain, will increase, rather than cause a deteriorating effect in the neighborhood. He stated that with the putting in of sidewalks, curbs, landscaping that this new business would be a benefit to the neighborhood. One of the concerns that was expressed by staff is that, when they request the B3B, they will be adding another 40 to 50 uses for this property. He stated that there are already uses in the B1B that would not be desirable at this location. He stated that a liquor store, a masseur salon, would not be something that would be desirable. He stated that with all of the uses allowed in the B1B, he does not feel that too many of the uses allowed are practical for this location. He stated that if they obtained the zoning for the use they have requested, they would agree to enter into a restrictive covenant that would limit the use of the real estate. It would limit the use of the property under the B3B zoning to only the used car lot facility. He stated that it would be a covenant that would run with the land. He felt that a covenant would alleviate some of the concerns that they are spot zoning, or that the zoning would deteriorate the neighborhood, or that they would allow all the other uses, which are listed, under the B3B zoning classification.

Ken Nord, President of CE&M Architects & Engineers, appeared before the Commission. Mr. Nord stated that he met several months ago with the staff of Traffic Engineering to review the access to the site. He stated that presently there are three drives into the property, two on Calhoun Street, and one on Lenox Avenue. He stated that their proposal is to close the northern most approach on Calhoun Street and to specifically narrow down the entrance from Lenox Avenue. He stated that they will have only one entrance at the south end of the property on Calhoun Street and one somewhat near the Calhoun and Lenox intersection on Lenox. He stated that Traffic Engineering staff does not find these two accesses to be a problem. As far as the building is concerned they are looking at a 4800 square foot structure. It will be a one story structure. He stated that they have not determined the final exterior appearance, however get a retail look. It will have fairly large windows on at least two sides of the building and the building will be of a wood frame type construction. He stated that there will a masonry or stucco type exterior finish on the two major sides, which would be the north and the side on Calhoun Street. He stated that the rear will probably be done in a metal siding. He stated that the overall height will be approximately 20 to 23 feet at the highest point. He stated that they will have to provide landscaping. He stated that they propose to provide improvements along Lenox Avenue.

He stated that they have met with the Street Engineering staff and they felt that their plans were consistent and compatible with their plans for the area along Calhoun Street.

Mel Smith questioned if they would be removing the tanks from the station.

Mr. Nord stated that they would be required to be removed.

Jim Hoch questioned how many cars would be located on the lot at one time.

Mr. Bloom stated that Mr. Dougherty would address that issue.

Terry Mullins, president of operations for Raricks appeared before the Commission. Mr. Mullins stated that they currently have 15 rental-purchase stores that they operate in three different states. He stated that they also have one auto lot, that they operate on Spring and St. Marys. He stated that they intended use for this property is similar to what they have at the Spring/St. Marys location. He stated that the only difference being is that the car lot would be adjacent to the building, rather than across the street. He stated that the number of cars they intend to have on the lot would be from 15 to 20 cars, depending on the final layout of the property. He stated that they would need enough space on the lot for customer parking.

Mel Smith questioned if they already had a business in Southgate Plaza.

Mr. Mullins stated that they have a rental/purchase store in Southgate Plaza.

Mel Smith questioned if it could accommodate everything except the used car sales.

Mr. Mullins stated that can accommodate everything but the used car dealership.

Mel Smith questioned why this could not go through the Board of Zoning Appeals as a Use Variance.

Dale Bloom stated that originally they talked about it being a Use Variance in a B1B. He stated that the petition was filed as a rezoning, because of the discussions that he had with Pat Fahey, Senior Planner, with C&ED.

Pat Fahey stated that it is staff's opinion, that with a commercial zoning, it is very difficult for to really meet the legal requirements for a use variance. He stated that for a use variance there must be some hardship associated with the property, that makes it difficult to use as it is currently zoned. He stated that in this instance with a B1B commercial classification, it permits a large array of commercial uses. He stated that it is opinion, and has been, whenever someone proposes a use variance in a commercial district, that it would be difficult to meet the legal test to show what the hardship is on the property to support the use variance.

Don Schmidt stated that he felt that he felt that this was one of the most hardship type of land in the entire community, a gas station. He stated that all over town there are vacant stations. He stated that currently at the corner of Sherman and Spring there is a super location that is going unused because of the zoning.

Doug Bowman, 5225 Buell Drive, president of the Neighborhood Association appeared before the Commission. He stated that Mr. Mullins gave a very informative presentation at the general

association meeting in April. He stated that he presented plans to the association, showing the building and the landscaping. He stated that the members that were present at that meeting in April did not feel that this would be an eyesore. He stated that all the members that were at the April meeting were in favor of this use and no opposition was voiced at that time. He stated that he personally did not feel that this use would be a detriment to the neighborhood. He stated that the people at the meeting felt that this was a much better option than just having the property set vacant.

Karen Spake, real estate broker, with Goldstein-Knapke Company, appeared before the Commission. Ms. Spake stated that this property has been on the market for approximately 4 years. She stated that she has only represented the property since January of 1995. She stated that it is very hard to sell a small station to another intended station owner. She stated that to see a new building their, as is proposed, a viable business, on the property will be an asset to the area.

Don Schmidt asked if the who would be required to remove the tanks.

Ms. Spake stated that the current property owner would be liable for removing the tanks.

Don Schmidt asked if Mr. Dornte is going out of business.

Ms. Spake stated that he was.

Mr. Schmidt questioned if Rarick's does not purchase the property is will become vacant property.

Allen Dornte, the applicant and current property owner, appeared before the Commission. Mr. Dornte stated that he has operated the filling station on this property since 1964. He stated that he occasionally has sold used cars from the property for friends, customers and employees. He stated that he has never had any objection to that activity from anyone in the area. He stated that the property has been for sale for 4 years. He stated that he has been through various brokers and he has not had one down payment or any interest that has been substantiated with any type of purchase offer. He stated that he has the opportunity to sell it to Mr. Mullins, pending zoning approval, if he takes the tanks out, which he plans to do. He stated that he had arranged for the tank removal for the end of June. He stated that because of the delays in zoning, he has postponed it, and they are now scheduled to come out on July 31st. The state requires that you submit a plan to remove the tanks. He stated that you have a 90 day window to do the submittal once the application has been received. He stated that he has approximately 45 days left to remove the tanks.

Mr. Schmidt questioned what would happen if he does not have the tanks out in the prescribed time.

Mr. Dornte stated that he would have to reapply. He stated that because he missed the July 1st deadline fee has passed, he was required to pay an additional \$1,160 tank fees for the year. Mr. Dornte stated that when the tanks are removed and the loan has been approved Mr. Mullins can have immediate possession. He stated that this proposed use would probably generate less traffic. He stated that he probably takes care of 100 cars a day. He didn't think he (Mr. Mullins) would have that type of traffic.

Ms. Buskirk questioned if they would stay in Southgate Plaza if they do not receive this rezoning.

Mr. Mullins stated that in the short run, but the sale of cars is something that they want to do. He stated that it would be their intent to stay in Southgate, if the zoning is not approved, until they find another suitable site for their proposed use.

There was no one else present who spoke in favor of or in opposition to the proposed rezoning.

REZONING PETITION

AREA MAP

CASE NO. #590



R1 One-Family
R2 Two-Family
R3 Multi-Family
RA/RB Residential
PUD Planned Unit Dev.

B1 Limited Business
B2 Planned Shopping Center
B3 General Business
B4 Roadside Business
POD Professional Office District

M1 Light Industrial
M2 General Industrial
M3 Heavy Industrial
MHP Mobile Home Park

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on July 11, 1995 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-95-07-02; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on July 17, 1995.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

- (1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;
- (3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;
- (4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,
- (5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held July 24, 1995.

Certified and signed this
3rd day of August 1995.



Carol Kettler Sharp
Secretary

A. Dale Bloom, attorney for Allen C. Dornte, requests a change of zone from B-1-B to B-3-B.

Location: 5002 S. Calhoun Street

Legal: Lots 566, 567, 568 and 569 Belmont Addition

Land Area: Approximately 0.4 acres

Zoning: B-1-B

Surroundings: North B-1-B Commercial
South B-1-B Commercial
East B-3-B Southgate Plaza
West R-1 Single Family Residential

Reason for Request: To conduct a "rent-to own" rental business and a "Buy Here - Pay Here" used car lot.

Neighborhood Assoc.: Fairfield Terrace - Belmont

Neighborhood Plan: No comment.

Comprehensive Plan: The general land use policies of the comprehensive plan state that development proposals should be compatible with existing and planned land uses and should not establish and undesirable precedent in the area to be developed.

This property is located within the Middle Ring. The goal of the Middle Ring is to maintain investment and prevent deterioration in existing neighborhoods.

Planning Staff Discussion:

This site is currently a filling station located at the corner of Calhoun Street and Lenox Avenue. It is directly across the street from Southgate Plaza.

A "rental business" has been interpreted as a permitted use in a B-1-A district, provided that all items are kept inside a building. Used car sales requires a B-3 designation. Approximately 90 uses are permitted under the existing B-1-B classification. The requested B-3-B designation would add another 40 to 50 uses including automotive service uses, pawnshops, and other repair and service uses, among others. Rezoning petitions are typically evaluated based not on the intended use, but on the entire range of uses that the requested classification would permit. Staff requests that the petitioner

declare the intended use simply to allow staff to review any alternatives that may merit consideration.

There are any number of active businesses in this B-1-B area, and this area acts as a transitional use to buffer the residences to the west from the potentially more intensively zoned Southgate Plaza to the east. Southgate Plaza is home to a diverse number of uses oriented to retail sales and more typical of a B-1-B zoning.

Even if argued as an extension of the B-3-B zoning of the Southgate Center, the character of a used car lot has nothing in common with that of Southgate. Whereas Southgate's traffic is inwardly oriented, presenting a neutral face to Calhoun Street, an auto dealership would be highly street oriented. B-3-B zoning does not require much of a buffer to residents to the west or to mitigate the more highly commercial character of potential uses.

The Comprehensive Plan cites one of its goals as to prevent deterioration in existing neighborhoods, while maintaining property values. Granting a B-3-B zoning on these four lots would clearly set a precedent that is out of character with the existing area development. As the included area map shows, this section of South Calhoun Street has B-1-B zoning on the west side that runs from Pettit Avenue, south to Fairfax Avenue. Southgate Plaza is the only non-residentially zoned property in that same area. You would need to travel south to Tillman Road or north to Rudisill Boulevard to find another B-3-B or higher zoning.

Likewise the condition and character of uses and structures in the area are not supportive of the B-3-B designation. To the west is existing residential, south of Fairfax Avenue is residential, with a school and library on the east side, south of Southgate Plaza. North of Pettit Avenue, on the west side, is a church that runs to Maple Grove Avenue, while the east side is entirely residential. It seems apparent that the intent of this B-1-B strip was and is to buffer the residential uses to the east from the potential of Southgate Plaza development.

Staff is of the opinion that the south side of Fort Wayne needs to be evaluated for potential zoning changes, creating additional areas for more intense development. However we do not believe that this is the correct area for such a change. The potential for negative impacts on existing housing values, and potential impact on traffic safety, especially with a school and library in close proximity, persuade us to recommend that the petitioner seek a different location for the proposed used car lot.

We would also like to point out that the rent-to-own business has been determined to be an acceptable B-1 use providing that all rental, servicing and storage is conducted entirely within a building.

Recommendation: Do Not Pass for the following reasons:

- 1) Approval is not consistent with the character and condition of development in the area.
- 2) Approval could have a potentially negative impact on property values in the area, both of the residential and existing non-residential uses.



The City of Fort Wayne

Paul Helmke, Mayor

August 3, 1995

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-04-93, amending Chapter 157 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-95-07-03

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
7th day of August 1995.

**Council action on this
recommendation must take
place prior to:
September 22, 1995.**

Carol Kettler Sharp
Secretary

/pb

FACT SHEET

Z-95-07-03

BILL NUMBER

**Division of Community
Development & Planning**

BRIEF TITLE	APPROVAL DEADLINE	REASON
Zoning Map Amendment		
From B3B to M-2		

DETAILS		POSITIONS	RECOMMENDATIONS
Specific Location and/or Address 2000 S Coliseum B1		Sponsor	City Plan Commission
Reason for Project Steel Fabrication Shop		Area Affected	City Wide Other Areas
Discussion (Including relationship to other Council actions) <u>17 July 1995 - Public Hearing</u> See Attached Minutes of Meeting <u>24 July 1995 - Business Meeting</u> Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation. Of the eight (8) members present, seven (7) voted in favor of the motion, the Chair did not vote. Motion Carried Members Present: Linda Buskirk, Ernest Evans, James Hoch, Thomas Quirk, Dave Ross, Carol Kettler Sharp, Mel Smith, Vicky VerPlanck Member Absent: Donald Schmidt		Applicants/ Proponents	Applicant(s) Kenneth A & Edward L Snyder City Department Other
		Opponents	Groups or Individuals Jack Fitzpatrick, Ass't Pastor Greater Progressive Baptist Basis of Opposition Church - use would be a detriment to the residential character of the neighborhood
		Staff Recommendation	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against
		Board or Commission Recommendation	By <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
		CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

Project Start

Date 14 June 1995

Projected Completion or Occupancy

Date 3 August 1995

Fact Sheet Prepared by

Date 3 August 1995

Reviewed by
Patricia Biancaniello

Date 8 August 1995

Reference or Case Number

d. Bill No. Z-95-07-03 - Change of Zone #591
From B3B to M2
2000 So Coliseum Bl

Robert Snyder, architect, 6810 No Shadeland Avenue, Indianapolis, Indiana, appeared before the Commission. Mr. Snyder stated that they have met with the planning and zoning department and with the neighborhood association, and with the city traffic and storm water engineers. He stated that they have taken into consideration all of the comments from these different entities. He stated that the access from New Haven Avenue, is an existing drive, which may be retained. The southern most access from Coliseum Blvd., will also be retained. He stated that there is another drive closer to the intersection that will be eliminated, per the request of Traffic Engineering. He stated that they will not have any access from Redwood Avenue, per the request of Traffic Engineering and the neighborhood. He stated that there is an existing building on the property that would be used as administrative offices. He stated that they intend an addition to the building, which will be the steel fabrication shop. The new addition will be approximately 32,000 sq ft and 36 ft high. He stated that there is a turn around area located to the south of the building and there is a turn around off of New Haven Avenue. He stated that both of those would facilitate the truck turn around.

Mel Smith questioned if this business was currently in business in Fort Wayne.

Mr. Snyder stated that this business is "Miscellaneous Metals Corporation" and it is presently leasing an existing building, approximately 1½ miles to the west of this property, north of New Haven Avenue.

Jim Hoch questioned how long this structure has been vacant.

It was stated for quite some time, perhaps 20 years.

Mr. Snyder stated that they have eliminated a good portion of the existing surface parking. He stated that their plan indicates the proposed parking. He stated that based on the number of employees that they have and their needs, they would be eliminating a good portion of the parking. He stated that they proposed plan shows approximately 55 parking spaces. He stated that they only have 18 to 22 employees.

Betty Stotler, president, of the Harvester Neighborhood Association, appeared before the Commission. Mr. Stotler stated that she had a meeting with Mr. Snyder and several other people involve and concerned with the rezoning request. She stated that they addressed their concerns at that time. She stated that they request that they area be kept clean and they wanted to know if there would be any job opportunities. She stated that they stated they would be hiring approximately 2 new employees. She stated that the neighborhood was pleased with the plans that were presented. She stated that she had not heard of any opposition from any of the residents to this request. She felt that this would be an asset to the neighborhood.

Gary Gerardot, real estate broker, appeared before the Commission. He stated that he was in favor of the project, other than being involved with the sale, because it is nice to see someone take this property. He stated that this property has been vacant for a long time. He stated that he felt that this was a viable use for the land. It will create something new in the neighborhood which is desperately needed in this end of town.

Ken Snyder, a partner in Miscellaneous Metals Corporation, appeared before the Commission. Mr. Snyder stated that they are currently located at 1729 Edsall Avenue. He stated that it has been one of their long term goals to purchase a property.

Jack Fitzpatrick, assistant pastor of the Greater Progressive Baptist Church, appeared before the Commission. Mr. Fitzpatrick stated that he felt this type of use would be a deteriorating factor in the area. He stated that this is a very nice neighborhood. He felt a steel plant would be noisy.

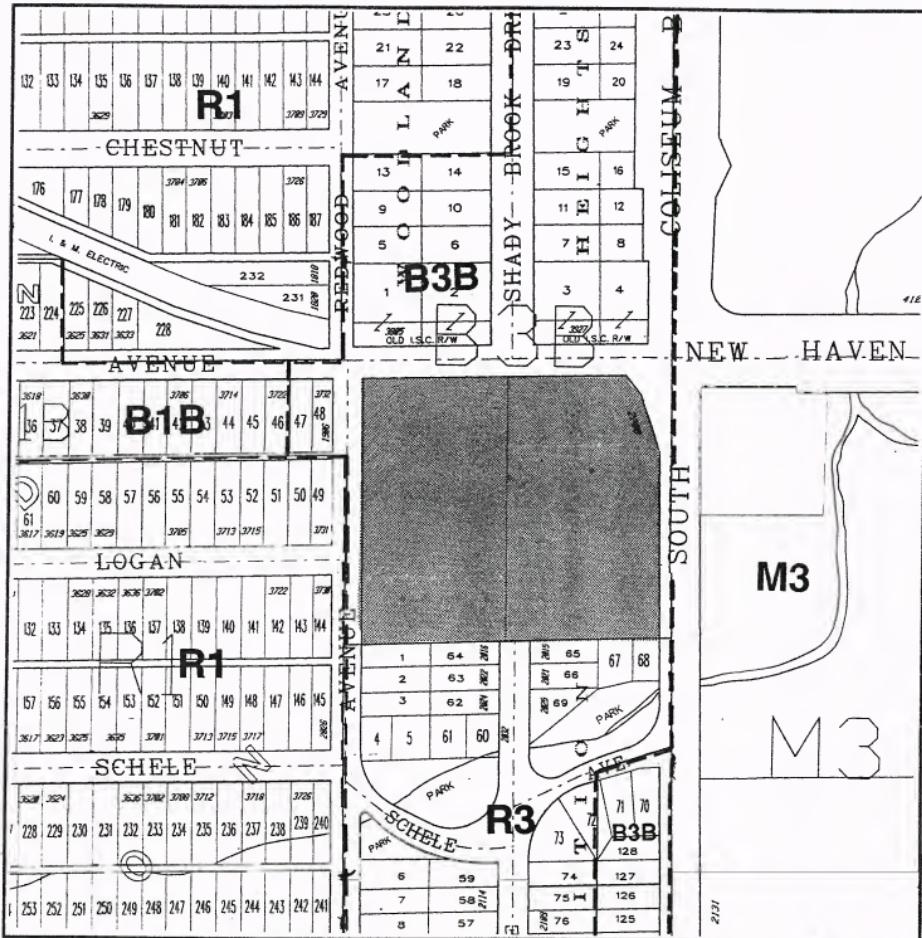
In rebuttal, Ken Snyder stated that this is very little noise emitted from their work. He stated that they do not manufacture steel. He stated that they take steel shapes and cut and punch them with hydraulic equipment. He stated that they have a very low noise level. He stated that all of the work in contained indoors. They are currently operating across from a residential area and they have never had a complaint. He felt that they would maintain the property and be an asset. He stated that currently it is a vacant, deteriorating structure.

There was no one else present who wished to speak in favor of or in opposition to the proposed zoning.

REZONING PETITION

AREA MAP

CASE NO. #591



COUNCILMANIC DISTRICT NO. 1

Map No. R - 3
LW 6-22-95

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUD	Planned Unit Dev.	POD	Professional Office District		

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on July 11, 1995 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-95-07-03; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on July 17, 1995.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;

(3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

(4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,

(5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held July 24, 1995.

Certified and signed this
3rd day of August 1995.



Carol Kettler Sharp
Secretary

Kenneth A. Snyder and Edward L. Snyder request a change of zone from B-3-B to M-2

Location: SW corner of New Haven and Coliseum Blvd. (2000 South Coliseum Boulevard)

Legal: See file

Land Area: Approximately 5.06 acres

Zoning: B-3-B

Surroundings:	North	B-3-B	Commercial
	South	R-3	Single Family Residential
	East	M-3	Industrial
	West	B1B/R-1	Commercial/Residential

Reason for Request: Steel fabrication shop

Neighborhood Assoc.: Harvester Community Association

Neighborhood Plan: No comment.

Comprehensive Plan: The general land use policies of the comprehensive plan state that development proposals should be compatible with existing and planned land uses and should not establish and undesirable precedent in the area to be developed.

This property is located in the Central Area. There are three main goals for the central area: 1) to maintain existing development; 2) to halt deterioration; and 3) to encourage reinvestment.

Planning Staff Discussion:

Staff has met with the petitioners on a number of occasions to address some of the immediate concerns that were raised when we were contacted about the possibility of the rezoning.

This site has sat vacant for a number of years, since Summit Bank closed their branch office. The north side of the street is O'Neils Glass and is zoned B-3-B, the same as this property. Industrial zonings are located on the opposite side of the street. Residential development exists to the south. To the west is an auto repair site and additional residential properties. The New Haven frontage in this area is generally zoned for commercial uses.

Staff suggested to the petitioners that they contact the neighborhood association to see what concerns they would raise, and to judge the amount of support or opposition. While we would like to see the site reused, we are also very concerned about possible impacts of an industrial zoning on the surrounding properties. Initial discussions indicated that this could be a relatively low intensity use that incorporates appropriate site development techniques, allowing this use to blend into the area, complimenting the improvements made on the east side, and protecting the dwelling units to the west and south.

The petitioners have indicated a sensitivity to the site and to the general concerns of the area. The initial site plan shows a reasonably good reuse of the site, reusing the existing building and constructing an addition. The addition will be located as far away from the residents as possible. Proposed site development includes a fair amount of tree retention, both for aesthetic and buffering purposes. Their proposal limits the number of access points, using only New Haven Avenue and Coliseum Boulevard, even though they have frontage on Redwood Street.

The proposed M-2 zoning permits a variety of uses that could be more intense than this proposal and potentially highly intrusive into the livability of the homes to the south and west. The city is very interested in a high level development at this location, a lesser quality development could diminish the public and private investment that has taken place on the east side of Coliseum Boulevard, and potentially hurt efforts by the Urban Enterprise Association to revitalize this area.

Both the existing B-3-B and the requested M-2 zoning allow for land uses which could negatively impact property values and quality of life issues. These two zoning districts have relatively minimal site controls, relying primarily on setback and parking lot screening requirements.

The M-2 district permits fabrication, manufacturing and processing industries within certain limitations. These restrictions include requiring enclosed buildings, and setting minimum distances from residential zonings. In discussions with the petitioners, it was determined that their proposed site development would not comply with the requirement that "a driveway, parking area or loading dock used by trucks, tractors, semi-trailer or trailers is 150 feet" away from a residential district. Failing to comply, they would need to either redesign the site layout, or seek a variance from the Board of Zoning Appeals. Redesigning the site layout does not appear to be workable without removing the existing structures and tree masses.

If the Board would approve a variance request, they could place appropriate reasonable conditions on such approval. Those conditions could include landscape buffering and other site design related issues.

Staff does not typically support placing general or heavy industrial zoning directly next to residential uses. However in this case there are circumstances that merit discussion. The opposite side of the street is zoned for heavy industrial uses, with only Coliseum Boulevard as a buffer against the residential uses to the west. This site has sat vacant for a number of years, and the existing zoning designation would permit a number of uses that could potentially be detrimental to the residential neighborhood, and quality of life issues.

Reuse of this site would be a positive step for revitalization of the area. A site development sensitive to area concerns could augment the improvement made on the east side of Coliseum Boulevard, and lead to further reinvestment in the area. As discussed earlier, the proposed site development would require additional approvals by the Board of Zoning Appeals. While the Plan Commission cannot place conditions on a rezoning petition, the Board can address site development issues by placing reasonable conditions on their approval.

The petitioners met with representatives of the neighborhood association and discussed the merits of their proposed rezoning, and site development. From discussions that staff has had with area residents, it appears that most people were in support of their proposal and welcome the re-use of the site. Concerns raised dealt with existing trees, noise, employment and an unrelated drainage issue.

Recommendation: Do Pass for the following reasons:

- 1) Approval will allow potential reuse of the site, and should encourage additional investment in the area.
- 2) Approval will allow an existing area business to expand, while remaining in the same area and in the same neighborhood association group.



The City of Fort Wayne

Paul Helmke, Mayor

August 3, 1995

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-04-93, amending Chapter 157 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-95-07-04

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
7th day of August 1995.

**Council action on this
recommendation must take
place prior to:
September 22, 1995.**

A handwritten signature in black ink that reads "Carol Kettler Sharp".

Carol Kettler Sharp
Secretary

/pb

FACT SHEET

Z-95-07-04

BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE	APPROVAL DEADLINE	REASON
Zoning Map Amendment		
From B1B to B3B		

DETAILS	POSITIONS	RECOMMENDATIONS
	Sponsor	City Plan Commission
Specific Location and/or Address 3132-3138 & 3140 Fairfield Avenue	Area Affected	City Wide Other Areas
Reason for Project Used Car Sales Lot	Applicants/ Proponents	Applicant(s) Carroll Auto Sales City Department Other
Discussion (Including relationship to other Council actions) <u>17 July 1995 - Public Hearing</u> See Attached Minutes of Meeting	Opponents	Groups or Individuals Basis of Opposition
<u>24 July 1995 - Business Meeting</u> Motion was made and seconded to return the ordinance to the Common Council with a DO NOT PASS recommendation. Of the eight (8) members present, seven (7) voted in favor of the motion the Chair did not vote. Motion Carried. Members Present: Linda Buskirk, Ernest Evans, James Hoch, Thomas Quirk, Dave Ross, Carol Kettler Sharp, Mel Smith, Vicky VerPlanck Member Absent: Donald Schmidt	Staff Recommendation	<input type="checkbox"/> For <input checked="" type="checkbox"/> Against Reason Against -approval is not consistent with predominant land uses in the area
	Board or Commission Recommendation	By <input type="checkbox"/> For <input checked="" type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
	CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

Project Start

Date 14 June 1995

Projected Completion or Occupancy

Date 3 August 1995

Fact Sheet Prepared by

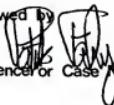
Date 3 August 1995

Patricia Biancaniello

Reviewed by

Date

8 August 1995


Reference or Case Number

c. Bill No. Z-95-07-04 - Change of Zone #592
From B1B to B3B
3132-3138 & 3140 Fairfield Av

Sean Carroll, petitioner, owner of Carroll Auto Sales, currently located at 3115 Fairfield Avenue, appeared before the Commission. He stated that the current auto sales is approximately across the street from the requested rezoning. He stated that the property where their auto sales is located currently is zoned industrial. He is requesting that the property across the street be classified to B3B for use as an auto sales lot. He stated that he is already present in the neighborhood. They have had no complaints, there have been no problems in the area. He stated that one of the reasons he would like to move is because their current location is not an ideal location. He felt the property across the street would make a more professional presentation. He stated that this parcel has been for sale for approximately 3 years and they are the first serious bidder. He stated that they have put money down on the property, the only thing that is holding them back is the rezoning. He presented the Commission with a site drawing of the proposed business if the property were rezoned. He stated that they would have approximately a maximum of 40 cars on the lot. He stated that the site is an old service station. He stated that all but one of the storage tanks have been removed. He stated that they want to expand and they only have space for 8 cars at their current location. He stated that their hours are 10 am to 6 pm, Monday through Friday and 8 am to 12 noon on Saturday. He stated that there is no body work done on the property. They do very light mechanical work on the cars, but all of the heavy work is done at another location. He stated that this property has been vacant for sometime and they will clean up the property and make it a viable part of the community as well as put it back on the tax base. He stated that he has lived in the south side of town all of his life. He stated that he has owned three homes at different time in the south side of town. He stated that he wished to remain in this area. He stated that he tries to use the vendors on the south side of town for his business needs.

Mel Smith questioned why the staff did not feel this be a BZA Use Variance.

Pat Fahey stated that it could be. In this particular instance you have B3B zoning to the south of the site and you do have a B1B classification that does permit a multiple number of commercial uses. He questioned what the hardship would be in this case.

Kevin Ames, President of the South Wayne Neighborhood Association, 1206 W Packard Street, appeared before the Commission. Mr. Ames stated that he was in favor of the rezoning. Mr. Ames stated that he has had several conversations with Mr. Carroll. Mr. Carroll presented this case to the Board and membership of the association. Mr. Ames stated that the only concerns that they came up with is the fact that pawn shops, second hand stores and rummage stores would be allowed in the classification. He stated that they would not want to see these type of uses in the area. He stated that other than those uses they whole heartedly agree with the petitioners. They would like to see that business go in there. He stated that this has been an empty lot for a very long time. He stated that there are 450 residents in the neighborhood association, with an active membership of 200. He stated that at the meeting where they discussed this there were 27 people present.

Ernest Evans questioned what it had been used for after the filling station closed.

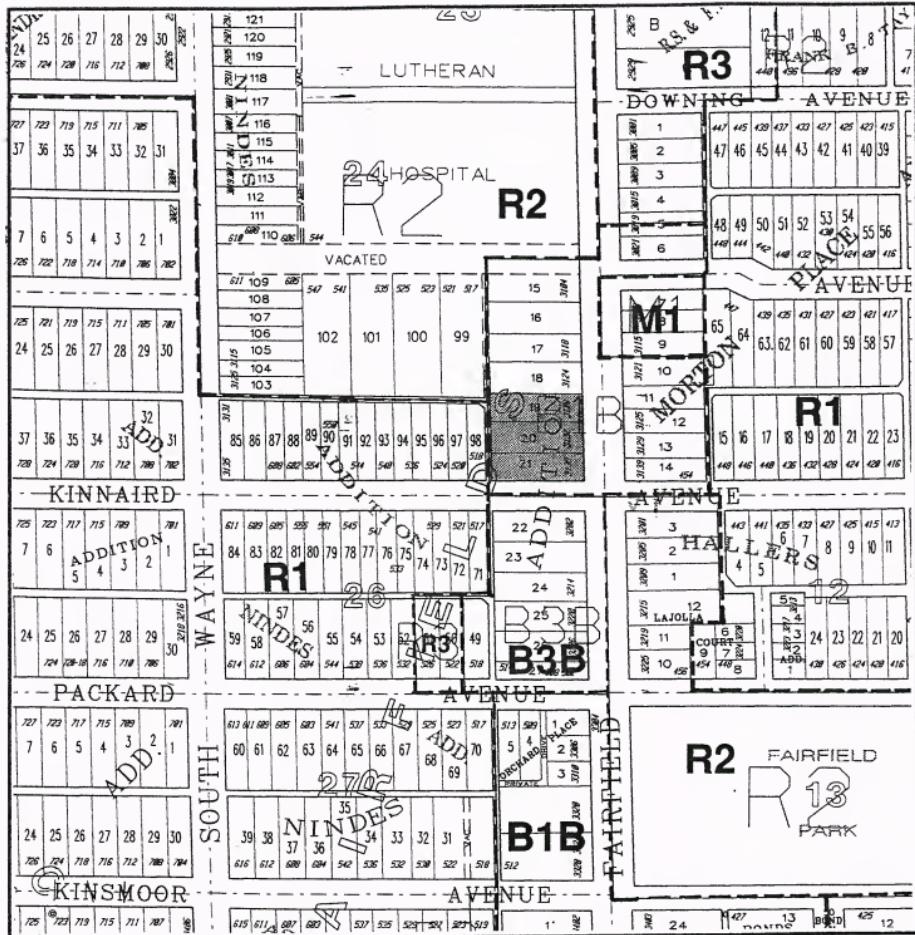
Mr. Carroll stated that he had heard it had been used as a donut shop.

There was no one else present who spoke in favor of or in opposition to the proposed rezoning.

REZONING PETITION

AREA MAP

CASE NO. #592



COUNCILMANIC DISTRICT NO. 1

Map No. L - 7
LW 6-22-95

R1	One-Family	B1	Limited Business
R2	Two-Family	B2	Planned Shopping Center
R3	Multi-Family	B3	General Business
RA/RB	Residential	B4	Roadside Business
PUD	Planned Unit Dev.	POD	Professional Office District

M1 Light Industrial
M2 General Industrial
M3 Heavy Industrial
MHP Mobile Home Park

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana on July 11, 1995 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-97-07-04; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on July 17, 1995.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO NOT PASS recommendation based on the following "Findings of Fact".

- (1) the grant will be injurious to the public health, safety, morals and general welfare of the community;
- (2) the use or value of the area adjacent to the property included in the rezoning will be affected in a substantially adverse manner;
- (3) the need for the rezoning does not arise from conditions peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;
- (4) the strict application of the terms of the zoning ordinance will not constitute an unusual an unnecessary hardship to this property;
- (5) the grant interferes substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law; and,

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held July 24, 1995.

Certified and signed this
3rd day of August 1995.



Carol Kettler Sharp
Secretary

R. John Wray, attorney for Lutheran Health Foundation, Kevin W. Doster, and Sean Carroll, dba Carroll Auto Sales, request a change of zone from B-1-B to B-3-B.

Location: 3115 Fairfield Avenue

Legal: Lot 19, 20 and 21 Nindes Addition

Land Area: Approximately 0.53 acres

Zoning: B-1-B

Surroundings:	North	B-1-B	Commercial
	South	B-3-B	Commercial
	East	B-1-B/R-1	Commercial / Residential
	West	R-1	Residential

Reason for Request: Used car sales lot

Neighborhood Assoc.: South Wayne Neighborhood Association
Fairfield Neighborhood Association (across the street)

Neighborhood Plan: No comment.

Comprehensive Plan: The general land use policies of the comprehensive plan state that development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed.

This property is located in the Middle Ring. The goal of the Middle Ring is to maintain investment and prevent deterioration in existing neighborhoods.

Planning Staff Discussion:

This site is located south of the old Lutheran Hospital, and on the same side of the street. It is at the northwest corner of the Fairfield and Kinnaird Streets intersection.

The B-1-B parcel north of the subject site is a barber shop. The former Lutheran Hospital and parking garage are located north of that. The B-3-B site to the south is a neighborhood grocery store, a use supportive of residential area needs. Other B-1 uses have been established in existing residences and

do not interrupt the character of the neighborhood.

There is existing B-3-B zoning south of Kinnaird Avenue, and a three-lot M-1 classification on the east side of Fairfield. The predominant uses in the area are medically related, probably due to the hospital site. The only use that apparently would not fit into the existing B-1-B designation is a used car lot located on the east side of Fairfield.

The petitioned site consists of a single building with a large paved parking lot. Although the building on the subject site may have limitations on its adaptive reuse, the neighborhood appears to be strong enough to support a variety of neighborhood oriented services. A used car lot or many other B-3-B uses could be much more disruptive in terms of noise, traffic generation, and appearance than B-1 uses.

The existing uses in the area are predominantly low intensity uses, residential, medical offices, and typical B-1-B uses. Intensifying the zoning may open the door for similar requests in area. While B-3-B designations exist south of Kinnaird Avenue, the actual uses are for the most part B-1-B uses. Neither the B-1 nor the B-3 classifications allow the opportunity for mandated buffering against the residential uses to the west. While a screen or buffer could be required in connection with a parking lot, that offers little protection for the established lower intensity uses.

An auto dealership would typically be highly street oriented. Other uses permitted in the B-3-B districts include pawnshops, secondhand or rummage stores, and service establishments among others. Many of these uses could result in negative impacts on the existing uses and character of the area. The Comprehensive Plan cites one of its goals as to prevent deterioration in existing neighborhoods, while maintaining investments. Granting a B-3-B zoning on these three lots would clearly set a precedent that is out of character with the existing area development.

The Plan Commission should look carefully at the existing zoning and uses and evaluate the potential uses and reuses in the area. The Lutheran Hospital site is predominant in its former location. The hospital building, its parking garage and the proximity of medical office development represent the potential future development. More intense land uses could result in further eroding the quality and ambience of the area. Staff would suggest maintaining the orientation to neighborhood service providers and office uses. With the relocation of the Lutheran Hospital this area has the potential for serious change. Whether or not that change should be within the limits of the existing land uses, or should be opened to more intense land uses is the decision that needs to be made.

Recommendation: Do Not Pass for the following reasons:

- 1) Approval is not consistent with the predominant land uses in the area.
- 2) Uses allowed under the requested B-3-B zoning could result in a deterioration of property values and quality of life issues.



MEMORANDUM

TO: City Council Members

FROM: Gary Stair, Director of Planning, Community and Economic Development

DATE: August 3, 1995

SUBJECT: Recommendation from Plan Commission

The attached land use petitions have been reviewed by the Fort Wayne Plan Commission and forwarded to you for final action. The Plan Commission's recommendation on each case, made after public hearing and review, has been certified by the Commission's Secretary and is summarized on the attached "Fact Sheet".

Occasionally, there will be a significant delay between the time the petition is filed and when the Plan Commission certifies its recommendation and forwards the case to you. This delay occurs when a petition receives "Conditional Approval" -- approval subject to the petitioner fulfilling certain obligations. In such cases the Plan Commission's staff holds the petition until all conditions have been met by the petitioner. Once all conditions have been satisfied, the case is forwarded to you.

As always, if you have any questions concerning the attached cases, please do not hesitate to call me or Pat Fahey of the Land Use Management staff at 427-1140.

/pb

Change of Zone - Bill No. Z-94-11-05

Amendment: From R-1 to B-1-B

Location: 1514 Orlando Drive

Applicant: Patrick Bruggeman

Proponents: Pete Mallers, attorney

Opponents: Ken Miller, President of Ludwig Park Association

Summary of Discussion: This rezoning would allow for the property to be commercially developed.

Staff Recommendation: Do Pass

Plan Commission Recommendation: Do Pass

Recommendation Given: January 30, 1994

Committee Session Date: August 15, 1995

Change of Zone - Bill No. Z-95-07-05

Amendment: From R-1 to R-3

Location: 3720 N Clinton Street

Applicant: Bruce Wilds

Proponents: Robert Haller, attorney

Opponents: None

Summary of Discussion: This rezoning would allow for construction of an office building pending Board of Zoning Appeals approval.

Staff Recommendation: Do Pass

Plan Commission Recommendation: Do Pass

Recommendation Given: July 24, 1995

Committee Session Date: August 15, 1995

Change of Zone - Bill No. Z-95-07-02

Amendment: From B1B to B3B

Location: 5002 S Calhoun Street

Applicant: Allen C Dornte / Bill G Mullins

Proponents: Dale Bloom, attorney

Opponents: None

Summary of Discussion: This rezoning would allow for the petitioners to conduct a "rent-to-own" rental business and a "Buy Here - Pay Here" used car lot on the property.

Staff Recommendation: Do Not Pass

Plan Commission Recommendation: Do Pass

Recommendation Given: July 24, 1995

Committee Session Date: August 15, 1995

Change of Zone - Bill No. Z-95-07-03

Amendment: From B3B to M-2

Location: 2000 S Coliseum Bl

Applicant: Kenneth A Snyder / Edward L Snyder

Proponents: Robert Snyder, architect

Opponents: Jack Fitzpatrick, Ass't Pastor for the Greater Progressive Baptist Church

Summary of Discussion: This rezoning would allow for the petitioners to operate a steel fabrication shop on the property.

Staff Recommendation: Do Pass

Plan Commission Recommendation: Do Pass

Recommendation Given: July 24, 1995

Committee Session Date: August 15, 1995

Change of Zone - Bill No. Z-95-07-04

Amendment: From B1B to B3B

Location: 3132-3138 & 3140 Fairfield Avenue

Applicant: Carroll Auto Sales

Proponents: Sean Carroll

Opponents: None

Summary of Discussion: This rezoning would allow for a used car sales lot to be operated on the property.

Staff Recommendation: Do Not Pass

Plan Commission Recommendation: Do Not Pass

Recommendation Given: July 24, 1995

Committee Session Date: August 15, 1995